

Iowa Department of Natural Resources  
Natural Resource Commission

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ITEM

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INFORMATION

TOPIC Chapter 40, Boating Speed and Distance Zoning: Petition for Rulemaking

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On January 22, 2009, The Department received a petition, requesting the Department to modify 571 IAC chapter 40 to allow two buoys to be placed on the Big Sioux River at Riverside Park.

561 IAC 5.4(2) requires the Commission to grant or deny the Petition within 60 days unless the petitioner agrees to a longer period. The Department has met with Mr. Butler from the Missouri River Boat Club (MRBC), and he has agreed to an extension regarding Commission action on his petition. The Big Sioux is a Bordering River so the Department is also working with South Dakota regarding this petition. The Department will present additional information, which may include a Notice of Intended Action to modify 571 IAC chapter 40 or a recommendation not to institute a Notice of Intended Action to modify 571 IAC chapter 40, at the regular meeting of the Commission, scheduled to be held in April 2009.

Jason Sandholdt, Law Enforcement, Interim Bureau Chief  
Conservation and Recreation Division  
March 12, 2009

Attachment: Petition for rule-making received January 22, 2009

#### PETITIONS FOR RULE MAKING

**Agency No.—X.1(17A) Petition for rule making.** Any person or agency may file a petition for rule making with the agency at (designate office). A petition is deemed filed when it is received by that office. The agency must provide the petitioner with a file-stamped copy of the petition if the petitioner provides the agency an extra copy for this purpose. The petition must be typewritten, or legibly handwritten in ink and must substantially conform to the following form:

Missouri River Boat Club (MRBC)  
Petition by Dennis D. Butler, Commodore of the MRBC  
for the adoption of rules relating to  
permit for a buoy on the Big Sioux River at Riverside Park located in Sioux City, Iowa near the marina located at the MRBC. PETITION FOR

## RULE MAKING

The petition must provide the following information:

1. A statement of the specific rule-making action sought by the petitioner including the text or a summary of the contents of the proposed rule or amendment to a rule and, if it is a petition to amend or repeal a rule, a citation and the relevant language to the particular portion or portions of the rule proposed to be amended or repealed..

The MRBC is requesting placement of a buoy at each end of the marina to have boats go by the marina at no wake speed The bouys would be placed 300 feet from each end of the marina. It would take two buoys.

2. A citation to any law deemed relevant to the agency's authority to take the action urged or to the desirability of that action.

Iowa Administrative Code (IAC) 571-403 (426A)

3. A brief summary of petitioner's arguments in support of the action urged in the petition.

The need for a no wake zone is as follows: (1) as all of our docks (32 docks) are floating docks, they are very subseptical to damage by boat wakes, (2) our public ramp is in the middle of the marina so when people are unloading and loading a large boat wake could damage the boat and also cause injury to the people doing the loading and unloading. The general public, DNR from Iowa and South Dakota, The local law enforcement agencies, the emergency services agency and the Sioux City fire department use our ramp, and (3) the north 350 of the bank is eroding by boats going by at a speed greater than a no wake zone.

4. A brief summary of any data supporting the action urged in the petition.

To repair the eroded north bank, the estimated cost is approximately \$ 75,000 and to repair a damaged dock would cost anywhere from \$ 100 up to \$ 3,000.

5. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by or interested in, the proposed action which is the subject of the petition.

The 150 members of the MRBC, The City of Sioux City Parks and Recreation department, the Council Oaks Condo's residents, local fisherman , the general public and the local law enforcement agencies.

6. Any request by petitioner for a meeting provided for by rule X.4(17A).

At this time we do not request a meeting.

**X.1(1)** The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.

**X.1(2)** The agency may deny a petition because it does not substantially conform to the required form.

**Agency No.—X.2(17A) Briefs.** The petitioner may attach a brief to the petition in support of the action urged in the petition. The agency may request a brief from the petitioner or from any other person concerning the substance of the petition.

**Agency No.—X.3(17A) Inquiries.** Inquiries concerning the status of a petition for rule making may be made to (designate official by full title and address).

**Agency No.—X.4(17A) Agency consideration.**

**X.4(1)** Within 14 days after the filing of a petition, the agency must submit a copy of the petition and any accompanying brief to the administrative rules coordinator and to the administrative rules review committee. Upon request by petitioner in the petition, the agency must schedule a brief and informal meeting between the petitioner and the agency, a member of the agency, or a member of the staff of the agency, to discuss the petition. The agency may request the petitioner to submit additional information or argument concerning the petition. The agency may also solicit comments from any person on the substance of the petition. Also, comments on the substance of the petition may be submitted to the agency by any person.

**X.4(2)** Within 60 days after the filing of the petition, or within any longer period agreed to by the petitioner, the agency must, in writing, deny the petition, and notify petitioner of its action and the specific grounds for the denial, or grant the petition and notify petitioner that it has instituted rule-making proceedings on the subject of the petition. Petitioner shall be deemed notified of the denial or grant of the petition on the date when the agency mails or delivers the required notification to petitioner.

**X.4(3)** Denial of a petition because it does not substantially conform to the required form does not preclude the filing of a new petition on the same subject that seeks to eliminate the grounds for the agency's rejection of the petition.

Dennis D. Butler, Commodore of the MRBC  
3637 Jones Street  
Sioux City, Iowa 51104

Phone: 712-203-0520

All information should be directed to Dennis Butler concerning this petition. My email address is dbutler @sioux-city..org